

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Hassan Mostafavi

Serial No.: 10/664,534

Filed: September 16, 2003

For: METHOD AND SYSTEM FOR
PREDICTIVE PHYSIOLOGICAL
GATING OF RADIATION
THERAPY

Group Art Unit: 2857

Examiner: Elias Desta

TERMINAL DISCLAIMER UNDER 37 CFR 1.321(c)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Varian Medical Systems Technologies, Inc. is the owner of all rights, title, and interest in and to the above-identified application (hereinafter, the "immediate application") pursuant to an assignment recorded in the Patent and Trademark Office to Varian Medical Systems Technologies, Inc. on April 12, 1999 at Reel 014059, Frame 0646.

The evidentiary documents have been reviewed, and, as of the signing of this Terminal Disclaimer, to the best of assignee's and the undersigned's knowledge and belief, Varian Medical Systems Technologies, Inc. is still the owner of all such rights, title, and interest. Varian Medical Systems Technologies, Inc. hereby disclaims, except as provided below, the terminal part of any patent granted on the immediate application that would extend beyond the term of U.S. Patent No. 6,621,889, and hereby agrees

that any patent so granted on the immediate application shall be enforceable only for and during such period that the legal title to said patent granted on the immediate application shall be the same as the legal title to U.S. Patent No. 6,621,889, and that this agreement is to run with any patent granted on the immediate application and be binding upon the grantee, its successors, and/or assigns.

In making the above disclaimer, Varian Medical Systems Technologies, Inc. does not disclaim the terminal part of any patent granted on the immediate application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of U.S. Patent No. 6,621,889 in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I, Gerald Chan of the law firm of Bingham McCutchen LLP, represent that I am a representative authorized to make this disclaimer on behalf of Varian Medical Systems Technologies, Inc.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

BINGHAM MCCUTCHEN LLP

Date: 6/18/04

By 
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